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R99-0143 May 20, 1999
REPORT NO. R99-0213 July 16, 1999

REPORT RE:

PRIVATE PATROL SERVICES AND OFFICERS

The Honorable City Council
City of Los Angeles
Room 615, City Hall East
Los Angeles, CA 90012

Honorable Members:

BY _____
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DEPUTY

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The City Attorney has been asked to prepare a report relating to the City's regulation of Private Patrol Services through enforcement of Los Angeles Municipal Code §52.34. This report supplements the previous reports made to this Committee on July 16, 1999 and May 20, 1999.

The City Attorney's Office and Police Commission staff met with representatives of the Bureau of Security and Investigative Services (BSIS) and received valuable information regarding the State's regulatory scheme. As a result of the meeting and further research, the following information and recommendations are presented:

Fees

The State's position is that the prohibition on the imposition of fees contained in Business and Professions Code §7582.5(c) applies to both fixed-post and street patrol security services. This position is not without merit since §7582.5(c) uses the language "private patrol operators and their employees" and a "street patrol person" is defined as a security guard or security officer employed by a private patrol operator. Additionally the legislative history of the Private Security Services Act (B&P §7580 et. seq.) indicates that one goal was to standardize fees charged for licensing security personnel and to

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avoid duplicative and costly licensing procedures. Therefore, it is recommended that the fee required in LAMC §52.34(b) be eliminated.

Permits

The fee prohibition in §7582.5(c) does not require the elimination of the permitting process altogether. Street patrol services and street patrol special officers may be required to: (1) register with the City, (2) provide full identifying information, (3) restrict their services to areas designated by the City, and (4) comply with any other "reasonable additional requirements" the City determines to be necessary to meet local needs, so long as they are not inconsistent with the Act. Therefore, it is recommended that the requirements of a permit contained in LAMC §52.34(b) remain intact.

Background

The State representatives explained the improvements in the State regulatory scheme as a result of advances in technology. Currently all security guards undergo State Department of Justice criminal history background checks before being given a State license. Beginning on January 1, 2000, all state-licensed security guards will also be subjected to an FBI criminal history check. Additionally, the State has a program called RAPBACK which ensures that BSIS is immediately notified when a security guard is arrested. Nonetheless, the City may continue to conduct background investigations since B & P §7582.5(a) allows the City to refuse registration to "any person of bad moral character" if it wishes to bear the expense. However the City may wish to rely on the State licensing scheme if it determines that the cost of continuing its investigative procedure outweighs its benefits.

Uniforms, Equipment, Badges, Insignia, Vehicles

The City may continue to regulate these areas through the ordinance and Police Commission rules so long as they are not inconsistent with the Act.

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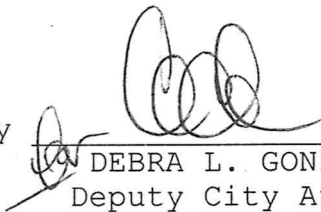
Conclusion

The City Attorney's Office remains prepared to assist the Public Safety Committee in amending LAMC §52.34 as desired by the committee.

Respectfully submitted,

JAMES K. HAHN, City Attorney
CECIL W. MARR, Senior Assistant
City Attorney
DEBRA L. GONZALES, Deputy
City Attorney

By



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Deputy City Attorney

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REPORT NO. **R99-0213**
JUL 16 1999

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REPORT RE:

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PRIVATE PATROL SERVICES AND OFFICERS

The Honorable City Council
Public Safety Committee
Room 415, City Hall East

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JUL 16 1999

J. MICHAEL CAREY

Honorable Members:

The City Attorney's Office has been asked to prepare a report relating to issues regarding the City's regulation of Private Patrol Services through enforcement of Los Angeles Municipal Code § 52.34. Specifically the Committee has requested that the City Attorney:

1. Address issues of overlap and areas of conflict between the City's Private Patrol Ordinance, the Police Commission Rules and State law.
2. Discuss why some if any duplicative areas should be retained.
3. Prepare recommendations and a draft ordinance for all necessary additions to or deletions from the LAMC, including the deletion of the Police Commission fee.

Attached is a table which sets forth the comparison of the State laws governing private patrol services (Business and Professions Code § 7580-88) with the provisions of the City's Ordinance (LAMC § 52.34) and the Police Commissions Rules and Regulations. The key provisions in the State law which relate to local regulation of private patrol services are contained in B&P §§ 7582.5(a) and (c). Unfortunately, the intent of these sections is anything but clear. In our previous report to the committee, it was our opinion that § 7582.5(c) only applied to "fixed-post" private patrol operators and that it did not prohibit the charging of fees to "street patrol services or street patrol special officers." However, on July 13, 1999, this office received a copy of a letter from the Bureau of Security and Investigative Services which states the Bureau's opinion that no fee may be charged to any private patrol operator regulated by the State. Although the State agency acknowledged the ability of municipalities to "impose reasonable additional requirements" as authorized by § 7582.5(a), it is unclear how such regulations may be imposed absent a permitting process. Due to this confusion regarding the manner and extent of municipal regulation which will not conflict with the State statutory scheme, specific recommendations and a draft ordinance have not been prepared.

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Conclusion

It is requested that the City Attorney's Office and Police Commission staff be given additional time to meet with representatives of the State in order to clarify the issues raised by the Bureau of Security and Investigative Services letter. After clarification is obtained, the City Attorney's Office will prepare specific recommendations and a draft ordinance to amend LAMC § 52.34 and the Police Commission Rules and Regulations governing private patrol services and private patrol officers.

Respectfully submitted,

JAMES K. HAHN, City Attorney
CECIL MARR, Senior Assistant City Attorney
DEBRA L. GONZALES, Deputy City Attorney

By 
DEBRA L. GONZALES
Deputy City Attorney

BUSINESS & PROFESSIONS CODE	LOS ANGELES MUNICIPAL CODE	POLICE COMMISSION RULES
<p>7582: Prohibits person from engaging in private security services business unless licensed.</p>	<p>52.34(b)(1): Unlawful to engage in business of maintaining or operating private patrol service in the City without first obtaining a State permit and a City permit.</p>	
<p>7582.1(a): A private patrol operator, or operator of a private patrol service, . . . is a person . . . who, for any consideration whatsoever: Agrees to furnish, or furnishes, a watchman, guard, patrolperson, or other person to protect persons or property or to prevent the theft, unlawful taking, . . . or performs the service of a watchman, guard, patrol person, or other person, for any of these purposes.</p>	<p>5234(a)(1): Private patrol service is any person . . . which furnishes or purports to furnish to members, subscribers, or customers any uniformed or special officer for the purpose of affording additional security and protection of person and property or to perform any other service directly related to the private protection of life and property.</p>	
<p>7582.1(e): A security guard or security officer . . . is an employee of a private patrol operator, . . . who performs the functions as described in subdivision (a) on or about the premises owned or controlled by the customer of the private patrol operator or by the guard's employer or in the company of persons being protected.</p>		

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<p>7582.1(f): A street patrolperson . . . is a security guard or security officer employed by a private patrol operator who performs the functions described in subdivision (1) by street patrol service utilizing foot patrol, motor patrol, or other means of transportation in public areas, streets or public thoroughfares in order to serve multiple customers.</p>	<p>52.34(a)(2): A special officer is any person who performs for a private patrol service the duties of a uniformed guard, uniformed watchman, or uniformed patrolman whose primary function is patrolling from one location to another by City streets. Does not apply to industrial plants, department stores, community associations, or private clubs.</p>	
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<p>7582.5(a): Allows local regulations upon street patrol services or street patrol special officers requiring registration with an agency including full information as to the identification and employment and subject to the right of the city to allocate certain portions of the city within which the activities of any street patrol service or person shall be confined. Any city may refuse registration to any person of bad moral character and may impose reasonable additional requirements necessary to meet local needs and are not inconsistent with the provisions of this chapter.</p>	<p>52.34(f): Police Commission shall have authority to make rules and regulations not inconsistent with this chapter concerning private patrol services and special officers.</p>	<ol style="list-style-type: none">1. Maintain business address and/or emergency telephone number where a company representative is immediately available to LAPD on a 24 hour basis.2. No advertisement shall imply that the patrol service is part of LAPD or any other law enforcement agency.3. Copy of any advertisement, notice or card used shall be submitted to Commission.12. Monthly inspections of uniforms, identification cards, badges, equipment, ammunition and weapons. Records of inspections shall be maintained for one year and be available to Commission upon request.15. Special Officer shall identify himself as a S.O. and give his name, badge number, and employer's name upon request in connection with his duties. At no time shall he conduct himself by word or manner to lead others to believe that he possesses the power to enforce Traffic Regulations or issue Traffic Citations, and he shall not interfere with or attempt to influence the lawful business of any person.17. Operator shall forward copies of all complaints regarding the activities of permittee and his agents. These shall be investigated by LAPD and are
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		<p>18. Operator shall post in a conspicuous location in his local place of business a copy of these rules and laws and shall keep copies also available for review at the main place of business.</p> <p>19. Violation of any of Board rules, State or local law in connection with the operation of a Private Patrol may be cause for suspension/revocation of the permit held by the operator or its employees.</p>
<p>7582.5(b): Allows local regulations upon any employees of a private patrol operator who do not furnish evidence of State registration.</p>		

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<p>7582.5(c): Allows local authorities to require private patrol operators and their employees to register their name and file a copy of their state identification card with the city and prohibits any fee or application for this registration.</p>	<p>52.34(b)(2)A: Application for permit to operate a private patrol service business in the City shall be filed together with an application fee with the Permit Section of the City Clerk's Office. [Possible conflict with 7582.5(c)]</p> <p>52.34(b)(2)C: Applicant shall furnish the Police Commission with a photostatic or certified copy of his State of California License and Bond evidencing compliance with State laws regulating private patrols.</p> <p>52.34(h): Fees and permits required by this article shall be in addition to any license, permit or fee required under any other chapter of this code. [Possible conflict with 7582.5(c)]</p> <p>103.12: Fees. The Clerk shall receive all police permit fees. Applications for permits shall not be accepted by the Clerk unless accompanied by the prescribed fee. [Possible conflict with 7582.5(c)]</p>	
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<p>7582.6: Application for a license shall be on a form prescribed by the director and accompanied by an application fee.</p>	<p>52.34(b)(2)A: Application for a permit to operate a private patrol service shall filed with the Permit Section of the City Clerk's Office on forms supplied by the City. A separate application signed and verified by the applicant shall be filed with the Police Commission. [Possible <i>conflict</i> with 7582.5(c)]</p> <p>52.34(g): Permits issued under this article are not transferable. Prohibits the owner of private patrol service from selling, assigning or transferring such service. Any new owner, transferee, or assignee shall be required to qualify under this article before commencing operations or carrying on business as a private patrol service.</p>	
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7582.7: Application shall be verified and shall include (a) full name and business address, (b) name under which the applicant intends to do business, (c) statement of general nature of the business, (d) type of license applying for, (e) statement of experience qualifications, (f) a personal identification form with photograph taken within one year, two legible sets of fingerprints, a personal description of each person, including residence addresses and employment history for previous five years (g) for individual applicants, list all other names used during past 10 years.	52.34(b)(2)A: Application shall state the name, address and organization of the private patrol service, its method of operation, the territory or location it proposes to serve, the names, addresses and physical description of its officers, members, associates and employees, and fingerprints and recent photographs of applicant, its officers, members, associates, and employees as may be deemed necessary by the Board of Police Commissioners. [<i>Duplication of 7582.7 and possible conflict with 7582.5(c)</i>]	
7582.8. Qualifications for license or registration. (a) be at least 18 years of age, (b) not have committed acts or crimes constituting grounds for denial, (c) comply with requirements specified for particular license or registration, (d) comply with other qualifications as the director may fix by rule, (e) comparable military training may be used to meet other training-related requirements.	52.34(b)(2)B: Surety bond. Application must be accompanied by a surety bond in a form approved by the City Attorney for \$15,000 blanket coverage for each and all employees, officers, members or associates of the private patrol service.	

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<p>7582.16: Retention of employee records. Licensee shall maintain records containing information relative to his or her employees as prescribed by the director.</p>		
<p>7582.26(i): No private patrol operator licensee or person required to be registered as a security guard shall use or wear a baton or exposed firearm unless he is wearing a uniform that complies with 7582.7.</p>	<p>52.34(c)(3)B: Police Commission shall specify the police-type equipment, including weapons and ammunition, which a special officer may carry while on duty. Unlawful for special officer to carry, wear, or use any equipment while on duty it not previously approved by the Commission for the officer. Use of any firearm and ammunition shall be of a brand name, model and caliber as approved by the Commission or its agent. Prohibits special officer from carrying firearm unless he has completed the training course required by the State.</p>	<p>10. Employee address changes shall be maintained by the permittee and are subject to inspection by the Commission.</p> <p>13. Private patrol operators and self-employed Special Officers shall prepare and deliver an employee list to the Commission 4 times per year. The employee list shall include the employee's name, Commission number, Commission badge number, State identification number, and other State required certifications.</p>

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<p>7582.27: Identifying patches. Requires person who uses or wears a baton or exposed firearm to wear a patch on each arm that reads "private security" and includes the name of the employing company. Patches must be clearly visible at all times and must be of a standard design approved by the director.</p>		
<p>7582.28: Any badge or cap insignia worn by a person who is a licensee . . . or employee of a licensee, shall be of a design approved by the director, and shall bear on its face a distinctive word indicating the name of the licensee and an employee number by which the person may be identified by the licensee.</p>	<p>52.34(c)(3)A: No badge, insignia or uniform shall be used or worn which is of a design as to be mistaken for an official badge, insignia or uniform worn by a law officer of any city/county/state agency within its jurisdiction. Permittee shall submit to the Police Commission a sample of the insignia intended to be used. Police Commission shall issue upon payment therefor a form of badge not containing the word "police." Special officers shall wear and display the badge and insignia on the outside of their uniform in a clearly visible manner. Any badge which is in need of repair/replacement or otherwise not authorized for use shall be immediately returned to the Police Commission. Unlawful for anyone other than permittee to use/wear/display a badge issued pursuant to this section. No insignia shall be worn if the sample submitted to the Commission has been determined to be in violation of this section. [Possible conflict]</p>	<p>5. Wearing or displaying of badges is prohibited except while performing as a Special Officer.</p> <p>6. Only badges issued by the Commission shall be worn when performing as a Special Officer.</p> <p>7. Badges shall only be worn by the Special Officer to whom the badge was issued.</p> <p>9. Hat emblems or pieces shall be uniform for each employee of a patrol service and shall be silver in color and of a design approved by the Commission.</p> <p>14. When a Special Officer has severed employment, he shall within 10 days return the identification card and badge to the Commission which will remain the property of the LAPD.</p>

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7583.3: Security guards (a) required to carry on their person, while on duty, a valid and current security guard registration card or unexpired temporary registration card , and (b) required to carry on their person a valid and current firearms permit when carrying a firearm on duty, and (c) prohibited from carrying or using a firearm unless possess a valid and current firearms permit, (d) required to report to employer within 24 hours any incident involving the discharge of any firearm during course and scope of employment.	52.34(c)(1): The private patrol service is responsible for each special officer to be registered with State and to carry proof at all times while on duty. Private patrol service permit may be suspended/revoked if an on-duty special officer cannot produce a temporary or permanent State registration when requested by a City police officer. 52.34(c)(2)A: Special officer must possess a permit issued by the Police Commission. [Possible <i>conflict</i> with 7582.5(c)]	
7583.4: Security guard or patrolperson required to deliver written report of any incident involving the discharge of firearm during course and scope of employment within 7 days after incident. Report shall be made on form prescribed by director. Copy of report shall also be delivered within 7 days of incident to the local police which has jurisdiction over the geographic area where the incident occurred.	52.34(e): Private patrol service shall immediately report to the Police Department any weapon discharge made within the City, by any employee, office or associate. [Possible <i>conflict</i> with 7583.4]	

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	52.34(e): Reports to police. Private patrol service operator and special officer shall immediately make a report to the Police Department and the Police Commission any violation of the LAMC, State or federal law, which comes to his attention with the exception of minor traffic offenses.	
7583.9(a): Any employee who performs the function of a security guard or security patrolperson shall submit an application for registration and fingerprints along with the appropriate registration fee.	52.34(c)(1): Special officers must be currently registered with the State.	
7583.11: Temporary registration cards for employees of a licensee not valid for more than 120 days. Employee who has been convicted of a crime prior to applying for security guard position is not eligible for temporary registration card.	52.34(c)(2)B: A temporary permit not to exceed 45 days may be issued by Secretary of the Police Commission if application on file, permit fees paid, preliminary investigation does not reveal grounds for denial, has valid permanent or temporary State Guard Registration Card, has a State Firearms Permit if applicable, and has a valid California Driver's License. 103.06(b): A temporary permit not to exceed 60 days may be issued by Police Commission.	

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<p>7583.12: Requirements to carry/use firearms. (1) valid guard registration card and (2) valid firearm qualification card. Exception for peace officer who meets specified requirements.</p>		<p>5. The wearing or displaying of weapons and the carrying of loaded weapons is prohibited except while performing as Special Officer.</p>
<p>7583.38: A city may regulate the uniforms and insignias worn by uniformed employees of a private patrol operator and vehicles used by a private patrol operator to make them clearly distinguishable from those used by local regular law enforcement officers.</p>	<p>52.34(c)(3): No badge, insignia or uniform shall be used or worn which is of a design as to be mistaken for an official badge; insignia or uniform worn by a law officer of any city/county/state agency within its jurisdiction. Permittee shall submit to the Police Commission a sample of the insignia intended to be used. Police Commission shall approve the color of the proposed uniform and shall issue upon payment therefor a form of badge not containing the word "police."</p> <p>52.34(d): Police Commission shall approve the type or character of identification markings or insignia required to be placed on motor vehicles. Private patrol operator shall not use or permit to be used for patrolling any vehicle which does not have approved markings/insignia. No vehicle used by private patrol service shall be equipped with a red light, siren, or be painted in a manner similar to a police vehicle of the City or other law enforcement agency within jurisdiction.</p>	<p>4. Unless exempted, all members of a private patrol shall be in a full uniform at all times when performing any duty.</p> <p>8. Any uniform worn by permittee's employees shall be slate grey in color.</p> <p>11. Each vehicle used shall have a Police Commission number.</p>

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7583.39: Insurance for security guards carrying firearms. Requires private patrol operator who employs a security guard who carries a firearm as part of his duties to maintain an insurance policy as required in 7583.40.		
7583.40: Requires insurance policy with minimum limits of bodily injury insurance of \$500,000 and property damage insurance of \$500,000.	52.34(b)(2)D: Requires following insurance : workers' compensation, general liability insurance, automobile insurance and false arrest insurance in amounts to be determined by Police Commission. [Possible <i>duplication</i> of 7583.40]	
7583.41: Proof of insurance policy as required shall be provided by licensee to the bureau upon demand.	52.34(b)(2)D: Evidence of required insurance must be furnished to Police Commission upon request.	
7583.42: Failure to maintain required insurance coverage is grounds for suspension of private patrol operator's license.		
7586: A private patrol operator license , branch office certificate, and pocket card expires two years following the date of issuance or on the assigned renewal date. Provides for process to establish cyclical renewal of license and firearms qualifications card.	103.07(a): Annual police permit fees for existing police permits shall become due and payable each year during January and February.	

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7588: Fees. (a) private patrol operator application and examination fee for original license (\$200), (b) private patrol operator application fee for branch office certificate (\$75), (c) private patrol operator original license fee (\$500).	103.12: Fees. The Clerk shall receive all police permit fees. Applications for permits shall not be accepted by the Clerk unless accompanied by the prescribed fee. Private patrol: original fee (\$300), annual police permit fee (\$149), change of location fee (\$43). [Possible <i>conflict</i> with 7582.5(c)]	
7588(d): Renewal Fees. (1) private patrol operator license fee (\$500), (2) combination private investigator/private patrol operator (\$600), (3) branch office certificate for combination private investigator/private patrol operator (\$40) and private patrol operator (\$75).		
7588(h): Registration Fees. (1) security guard registration (\$25), (2) security guard registration renewal (\$25).	103.12: Fees. Special officer: Original fee (\$59), annual police permit fee (\$26), change of location fee (\$42). [Possible <i>conflict</i> with 7582.59(c)]	
7588(i): Other Fees. (1) firearms qualification fee (\$80), (2) firearms regualification fee (\$60), (3) initial baton certification fee (\$50).		